CONFISCATED PROPERTY.

SPEECH

OF

HON. L. D. M. SWEAT,

OF MAINE,

DELIVERED IN THE HOUSE OF REPRESENTATIVES,

FIRST SESSION, THIRTY-EIGHTH CONGRESS,

JANUARY 20, 1864.

The House having under consideration a Joint Resolution repealing a JOINT RESOLUTION explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes"—

Mr. SWEAT said:

Mr. SPEAKER: Radicalism in these fevered days of war, upon matters of legislation, is progressing with such unprecedented and fearful strides that one can hardly be excused for allowing himself to be astonished whenever any measure, however monstrous or extreme, is proposed for consideration before a deliberative assembly like this; but, sir, I must confess that when the measure now before the House was introduced by the gentleman from Iowa (Mr. WILSON) I was astonished, and I was still more surprised to see the attempts to stifle, or, at all events, to abridge the discussion upon it, when he announced that he should put it upon its passage under a call for the previous question. I think it is not too much for me to say that his courtesy in finally consenting that this measure should remain open for discussion for two days might have been slightly stimulated by the intimation of the gentleman from Pennsylvania (Mr. STEVENS) on his side of the House, who told him that if he expected his resolution to pass without amendment he would find himself wofully mistaken. I hold that upon this question, and upon all other questions affecting the rights of the citizen under the Constitution, we ought to have deliberative, free, calm, and full discussion, so that when we come to record our votes we may do it intelligently, or, at all events, that we may do it after sufficient time has been granted to us for the honest exercise of our judgments. This is all we ask of gentlemen upon the other side of the House, but this we do demand as our right, and as the right of the constituencies which we represent on this floor.

But when I reflect upon the scenes before us—the resistless whirl of events, so full of suffering and anguish; when the public mind is so shaken with doubts and fears, with frenzied thought and hurried action, it seems as if all mere human utterance or expression of opinion were vain and idle—so utterly weak and impotent as to make it but a mockery for any man to raise his voice of warning or counsel in favor of wise, prudent, and just action. This feeling pervades a much larger portion of our people than would at first appear, and an honest desire not to do or say anything which might be tortured into opposition to an earnest prosecution and speedy and just termination of the war, the most terrible of all earth's tragedies, closes the mouth of many of our most loyal citizens. Fear of misconstruction, and therefore fear of harm to the great cause, has made silence the rule and not the exception, not only with many among the masses of the people, but also with gentlemen on this floor. They consider silence a virtue.

But, sir, when the republic is writhing under the blows given her by the rebels in arms and by traitors who are skulking over the land, North as well as South,

and when, in addition to this, the *doctrinaires* and theorists of the day, born of revolution, and whose natural elements are carnage, hatred, and revenge, are thrusting forward their poisonous ideas, which, if carried out, would be sure to leave our country in anarchy and confusion, even after the success of our arms, which success is as sure as God's judgment; when these things, I say, are before us, silence and inaction are, in my judgment, no longer virtues. They are crimes for which I, at least, feel answerable before God and man. The time has come, and is pressing on us with all its awful weight, when honest thought, honest action and discussion, honest and prudent legislation especially, are demanded in the great name of constitutional liberty at the hands of every man connected with the administration of this Government. "Riven by the thunderbolt and scattered by the storm" as it is, the wreck of our republic is still worthy of every effort to save, for in it still lives the germ of the people's rights and the true spirit of liberty, from which in the future may be reared the fabric of the nation's salvation. With reference, therefore, to what may be saved by prudent legislation, it becomes not only the right but the duty of every man to act with earnestness upon the great matter of respecting the Constitution and the laws of the land, of crushing speedily and forever the armed rebellion, and saving the Union.

Before touching directly upon the question under consideration, I may be excused for a passing word upon the opening remarks of the gentleman from Maryland, (Mr. DAVIS.) I propose to treat them of course with fairness, but at the same time with entire freedom of expression as to the views I entertain of them.

That I may not be misunderstood, and that the gentleman shall not be misunderstood, either now or in the future, here or elsewhere, I call the attention of the House to his exact language which he has spread abroad, and for which, I presume, he is ready at all times to be answerable. He says:

"With whatever pleasure the gentleman upon this side of the House may have heard the very novel declaration of the gentleman from Ohio, (Mr. COX,) that he contemplated supporting in all proper measures the Administration in the prosecution of the war and the suppression of the rebellion, it is, perhaps, fortunate that the result of the political elections in the central slave States has placed the Administration beyond the necessity of relying upon his support. Were it not so, I incline to think that the kind of support the Administration would receive from the great majority of gentlemen on the other side of the House was indicated early in the session in that resolution proposed by a gentleman from New York, [Mr. FERNANDO WOOD,] which pronounced this an inhuman war."

Now, did he mean to characterize the political tone or temper of this side of the House from the vote which was given against laying that resolution on the table? What was the resolution of the gentleman from New York, (Mr. FERNANDO WOOD?) It embraced the idea that it was politic, expedient, and wise for this Government send commissioners to treat with the rebel authorities at Richmond; and this s the only object of the resolution. But the point of offence in it with the gentleman (Mr. DAVIS) seems to be that it contained the words "inhuman war;" and on this he predicates what would be our action in all matters pertaining to the war or the support of the Administration, and this, too, when he has had several opportunities to know the sentiment of this side of the House by their votes directly on the merits of other resolutions touching the prosecution of the war.

The gentleman has had experience enough in legislative bodies to know that voting against laying a resolution on the table is not necessarily agreeing with the sentiments contained in it. If that resolution had been permitted to come before the House, there would have been a direct vote on its merits, and then the gentleman would have known our views.

But the gentleman (Mr. DAVIS) goes on further to say, as follows:

"For myself, sir, relying on the fact that the people have sent enough of us here for the purpose of supporting the Administration, I would suggest that perhaps gentlemen on the other side of the House had just as well execute the mission with which the constituents that elected them sent them here, charged to oppose, to embarrass, to libel, and to break down the Administration, and leave the support of it to the gentlemen whom the people have sent here to maintain it. With all due respect to the patriotic purposes, the eminent ability of the gentlemen on the other side, when they tender support I shall look at it with something of suspicion, and, for myself, shall say, '*Non tali auxilio, nec defensoribus istis.*'"

I take it that he understands the meaning of the language which he thus uttered fearlessly before this House. He is accustomed to speaking, and therefore understood the full force and effect of it. He charges not only that we embarrass the Administration, but that *our constituents sent us here for that purpose—to oppose, to embarrass, to libel, and to break down the Administration.* Ah! is this the spirit with which gentlemen extend to us the right hand of fellowship, when we come here and say to them in all honesty that we are for supporting the Administration in every act that is consistent with the character of a Christian and civilized country, in putting down this infamous rebellion? I wish the gentleman to consider his words.

Was that the spirit, meaning, or purpose for which 285,000 voters in New York, 255,000 in Pennsylvania, 185,000 in Ohio, and 51,000 voters in the State which I, in part, represent here, sent their representatives to this House? By what authority, let me ask the gentleman from Maryland, does he say that he does not need our aid? Is he the special agent or attorney of the President, and is he authorized to come here and tell us that the President does not need our aid?

Mr. WASHBURNE, of Illinois. I would suggest to the gentleman from Maine that the gentleman from Maryland (Mr. DAVIS) is not in his seat.

Mr. SWEAT. It is not my fault. I wish that he were in his seat, for I would wish him to have an opportunity of answering me.

Mr. WASHBURNE, of Illinois. Then I suggest to the gentleman from Maine that he withhold his remarks until the gentleman from Maryland shall be in his seat.

Mr. SWEAT. It is the duty of gentlemen who make such charges on this floor as the gentleman from Maryland made to be in their seats at all times while the House is in session, and especially on the days immediately succeeding such attacks: he must have known that if we have any manhood, any truth, any self-respect on this side of the House, we should improve the first opportunity to repel and thrust back such charges in his teeth, and call upon him to answer. The gauntlet has been thrown down by a gentleman on that side of the House for the first time. The charge is that we are attempting to embarrass the Administration, and that we came here for that purpose. I say here, before my God and before all men who can hear or read what I say, that the purpose of my heart, the purpose of my constituents, so far as I know anything about it, is not to embarrass but honestly to aid the Administration in putting down this unholy and wicked rebellion. Have we shown any such disposition on this floor? Did we make any factious organization when we came here? Did we organize for the election of speaker or any other officer of this House? Did we claim, ask for, or receive any consideration at your hands in the distribution of the favors of this House? Have our votes indicated any disposition to embarrass the Administration? You will recollect a resolution offered here at a very early day of this session, for which we unanimously voted, save one gentleman from Maryland. That resolution pledged us to aid the Government by furnishing men and money to an unlimited extent for the purpose of putting down this rebellion, and declared that it was the duty of the people to do it. Did the gentleman, when he made that charge upon us, remember what we had done? If he did, it is well that we should know, at this early stage, the feeling which actuates *him*, but which I hope does not actuate many gentlemen on that side of the House. Examine, if you please, the rolls of your Army, and see if you do not find that a large majority of the men who are fighting the battles of the country represent and are of just such material as those against whom the gentleman's charges are made. If the gentleman from Maryland could place his ear to the bloody graves of the dead of Chickamauga, Chickahominy, Vicksburg, Port Hudson, of the Peninsula, Antietam, Gettysburg, and all the other battle-grounds of the Republic, he would hear a voice coming from them saying that they were just such men as those who have sent these conservative and Democratic

members to the Congress of the nation, and who are now maligned by the gentleman from Maryland as having been sent here especially for the purpose of libelling, embarrassing, and breaking down the Administration. Does the gentleman or any other member from Maryland recollect the 19th of April, 1861? What city and what people have the honor of having made that day forever memorable? Baltimore and her people. On the streets of what city of this Union was the first blood shed in this war—the blood of men who had started with stout hearts and strong arms to defend the people, enforce the laws, and guard the Constitution? It was on the streets of Baltimore, Maryland, one district of which is represented on this floor by the gentleman, (Mr. DAVIS.) I will say to that gentleman and to his friends that he comes from the wrong latitude to make any such charges against us as he has made here. And, if I am correctly informed, if there had been a free, *unawed*, uncontrolled vote in the third district of Maryland, we might have had another member on this side of the House to embarrass the Government in the way he charges us, instead of the distinguished gentleman from Maryland on the other side.

I say, therefore, in conclusion, that the whole style, matter, and manner of his introductory remarks failed by a great deal to impress me with the belief that he brings with him to the councils of the nation that degree of forbearance, brotherly love, Christian feeling, or statesmanship which are demanded in these perilous and distracted times. For myself, and for those I represent, I utterly deny his charges, and turn them over to him for reconsideration.

Now, sir, with this preliminary reply to the introductory remarks of the gentleman from Maryland—which I certainly should have omitted had I not considered his charge upon us and upon our constituents, who are unable to reply save through us, as wanton, unprovoked, and inexcusable—I propose to examine the question now before the House.

In order that we may understand precisely the question before the House, I will read a portion of the joint resolution of the chairman of the Committee on the Judiciary, and also the resolution proposed by the gentleman from Pennsylvania (Mr. STEVENS) as an amendment. The joint resolution is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the last clause of a "joint resolution explanatory of 'An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels' and for other purposes,'" approved July 17, 1862, be, and the same hereby is, so amended as to read: "Nor shall any punishment or proceeding under said act be so construed as to work a forfeiture of the estate of the offender, except during his life." This amendment being intended to limit the operation and effect of the said resolution and act, and the same are hereby limited, only so far as to make them conformable to section three, of article three, of the Constitution of the United States: *Provided*, That no other public warning or proclama-[illegible]nder the act of July 17, 1862, chapter ninety-five, section six, is, or shall be, required [illegible]e proclamation of the President made and published by him on the 25th day of July, [illegible], which proclamation so made shall be received and held sufficient in all cases now pending, or which may hereafter arise under said act.

And the following is the proposed amendment of the gentleman from Pennsylvania, (Mr. STEVENS):

Resolved, &c., That the joint resolution passed on July 17, 1862, entitled "joint resolution explanatory of an act to suppress insurrection," &c., be, and the same is hereby, repealed.

To ascertain the effect of the passage of this resolution we must bear in mind what the confiscation act of July 17, 1862, is, and also what the joint resolution of the same date is, which this resolution now before us proposes to repeal. Not to take time to read all of the confiscation act of 1862, I will only say that under and by virtue of that act the President is authorized to cause the seizure of the estate of rebel officers, of the President and other officers of the so-called Confederate States, of the governor of any of the said States, and of other persons holding offices of honor or trust; and under that act the courts have power to make such orders, establish such forms of decree and sale, and direct such deeds and conveyances to be executed and delivered where real estate shall be the subject of sale, as shall vest in the purchasers good and valid titles thereto. And the joint resolution of the same date, approved at the same time, and which is in fact a

part of the confiscation act, and which the President insisted should be passed before he would approve the act, is as follows:

Resolved, &c., "That the provisions of the third clause of the fifth section of 'An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes,' shall be so construed as not to apply to any act or acts done prior to the passage thereof; nor to include any member of a State Legislature, or judge of any State court, who has not in accepting or entering upon his office taken an oath to support the constitution of the so-called 'confederate States of America;' *nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life.*"

The proposition now before the House is substantially the repeal of the resolution which I have just read. If it stands on the statute-book it matters not which of the two constructions of the Constitution is correct which says: "No attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted"—whether the forfeiture is limited to the life of the offender, or whether it operates after his death, for you will perceive that the language of the joint resolution which the President insisted should be passed before he would approve the bill, is so definite, so clear and precise, as to settle the question forever. It reads: "Nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender *beyond* his natural life." The word beyond fixes the limitation with complete certainty. This is undoubtedly the meaning of the words in the Constitution. The President so understood it, and so did both Houses of Congress.

Two theories are put forth as to the effect of the repeal of this joint resolution. One sustained in common by the gentleman from Indiana (Mr. ORTH) and the gentleman from Maryland, (Mr. DAVIS,) the other especially advocated by the gentleman from Maryland, (Mr. DAVIS.) The first theory is, that after the repeal of the joint resolution there will be no constitutional objection to so enforcing the confiscation act as to take and dispose of the real estate in fee—working absolute forfeiture thereof and forever, for it is contended that the true construction of the Constitution is not to limit the forfeiture to the life of the offender, while on the other hand I understood the gentleman from Maryland, (Mr. DAVIS,) in his additional theory which he alone advocates, to say that admitting the Constitution limits forfeiture to the life of the attainted, there is another "due process of law," such as that designated in the confiscation act, by which the estate of the rebels may be taken in fee, and therefore he asks for a repeal of the joint resolution which now positively forbids forfeiture beyond the life of the offender for any of the causes set forth in the confiscation act.

I propose for a few minutes to examine these two theories, equally unsound, unheard-of, fallacious, insidious, and revolutionary, and also to answer the question of the chairman of the Committee of Ways and Means (Mr. STEVENS) put to the gentleman from Ohio (Mr COX) during the running debate last week, and which, perhaps, was not fully and directly answered at the time. He said:

"The Constitution provides that Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood or forfeiture. Now, has not Congress power to punish other than by attainder, and if that other punishment is the forfeiture of estate, does it violate the first clause of the Constitution?"

In answer to this I reply that it is undoubtedly the prerogative of Congress to define all crimes and offenses against law, and to attach such penalties, not repugnant to the Constitution, as become an enlightened, moral, and Christian people; but when the Constitution affixes limits to any particular mode or form of punishment Congress has no power to step over that boundary and enlarge or extend that particular method of punishment, although they may prescribe other and different penalties not forbidden by the Constitution. For example, the Constitution says:

"The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted."

Now, under this authority, Congress has declared the punishment of treason to be death; and though not limited to affixing the death penalty, nor prevented

from declaring any other punishment except forfeiture of estate absolutely, it may be of some importance in showing the view of every Congress up to that of 1862, that upon examination of the Statutes at Large you will find no other penalty affixed to that crime from the first enactment of 1790 to the present hour, except it be under the confiscation law of July, 1862.

I say, therefore, that Congress may punish treason by death, or by fine and death, or in any other way not limited or forbidden by the Constitution, but they cannot affix as a penalty the forfeiture of real estate of the offender beyond his life, for the plain reason that the Constitution limits that mode of punishment. Why, it is asked, this limitation? The importance of it was learned from the bitter lessons of the war for American independence.

In the words of a member of the last Congress, (Mr. Thomas,)—

"The strife and hate growing out of the confiscations of the Revolution are yet scarcely appeased; and it was with these confiscations fresh in the memories of the framers of the Constitution that the limitation of the power of forfeiture was adopted."

The only possible mode of trying, convicting, and punishing a person guilty of treason is prescribed by the Constitution.

Mr. STEVENS. I would like to understand this matter, and the gentleman will allow me to interrupt him. What I intended to say was that unless Congress passed a law and declared a punishment by attainder, they might inflict a punishment of death for treason, or any other punishment than death with confiscation. I want to know whether the confiscation act, in his judgment, is a bill of attainder, and produces attainder according to the law of this country? In the first section there is no confiscation of real estate, and the other sections which declare forfeiture of real estate have no reference whatever to treason, but to the property of alien enemies.

Mr. SWEAT. I should have answered the gentleman's question before I finished my remarks, and I propose to answer it in that way now. I understand his proposition to be this: He says we cannot punish treason under the Constitution, as such, except by the life of the person attainted; and he asks whether there is not some other process, and whether we may not take property in fee for other offenses.

Mr. STEVENS. I think I did not make myself clear. I ask him to say whether there is anything in that bill which does produce attainder.

Mr. SWEAT. I ask the gentleman's pardon. I think I understand his first enquiry to be this: He wishes to know whether, in my judgment, the confiscation act is a bill of attainder, and produces *attainder* according to the law of this country? To which I say, that if it be a bill of attainder, or in the form of one, intended to produce the *effect* of such a bill, it is most clearly unconstitutional; for the express prohibition of Art. 1, sec. 9, is that "No bill of attainder or *ex post facto* law shall be passed." Bills of attainder, as they are technically called, are such special acts of the legislature as inflict capital punishments upon persons supposed to be guilty of high offenses, such as treason and felony, without any conviction in the ordinary course of judicial proceedings. Such acts have often been resorted to in foreign countries as a common engine of State, and even in England they have been pushed to the most extravagant extent in bad times, reaching as well to the absent and the dead as to the living. (*Story's Com., vol. 3, p.* 209 *and* 10.) Such legislative enactments are forever forbidden by the section of the Constitution above referred to. Again, the gentleman (Mr. STEVENS) says that by the first section of the confiscation act (which declares the punishment of treason) there is no confiscation of real estate. Why this limitation, let me ask? Evidently because the Congress of 1862 took the same view of the restriction clause of the Constitution, Art. 3, sec. 3, that we are contending for—that treason should not carry with it forfeiture beyond the life of the offender. But he further says, "the other sections which declare forfeiture of real estate have no reference what-

ever to treason, but to the property of alien enemies," and therefore he argues, I suppose, that it may be forfeited absolutely. To which I reply, that upon examination of those other sections it will be found that the offenses therein described, although not designated as treason, contain all the substantial elements of treason, and must be limited in their punishment, so far as forfeiture of real estate is concerned, just the same as though they were called by their right name. But suppose that the offenses described in the act do not constitute treason, and that the persons therein mentioned are to be considered as alien enemies. I submit that that view of the matter by no means modifies or changes our reasoning upon the constitutional question we are considering, for if they are to be treated as alien enemies then their property is to be disposed of, not under the provisions of the Constitution, but under the laws of Nations, which we are not at present considering.

The only mode of trying and convicting a person of treason is prescribed by the Constitution:

"The trial of all crimes, except impeachment, shall be by jury."—*Art.* 3; *sec.* 2.

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."—*Art.* 3, *sec.* 3.

Again:

"No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury," &c.—*Art.* 5 *Amendments.*

The two great elements embraced in these provisions of the Constitution are: first, a presentment or indictment of a grand jury; second, a trial before a judicial tribunal and a jury of the country selected according to law. If, then, the person charged with treason be tried in *this* way and found guilty, the only remaining thing to be done, or that can be done, is to impose the penalties attached to the commission of the crime; and as I have already said, any punishment previously declared by Congress may be inflicted, not inconsistent with the limitation in the Constitution as to the forfeiture of real estate.

I have said any other punishment may be inflicted not prohibited by the Constitution. I say, therefore, to the question of the gentleman from Pennsylvania, whether Congress has not the power to punish otherwise than by attainder, and whether, if that other punishment is a forfeiture of estate, does it violate the Constitution, that in my judgment Congress cannot constitutionally pass a law to inflict upon a traitor as a punishment of his crime a forfeiture of his estate beyond his life.

No such power has ever been claimed by any jurist in the country down to the present time. The gentleman from Pennsylvania and the gentleman from Maryland do not come to a right conclusion in reference to the effect of Art. 1, section 9.

Their reasoning is applicable to Art. 1, sec. 9, and not to Art. 3, sec. 3.

In commenting on the clause "No attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted," the gentleman from Maryland (Mr. Davis) says:

"Now I take it that the meaning of that clause is that the forfeiture worked shall, must be effected during life. The honorable gentleman from Ohio, and those who think with him, would construe it to be that the forfeiture when worked shall only endure for the life of the party. Palpably the latter is the incorrect and the former the legal meaning. The purpose assumed is the protection of the offspring from punishment for the guilt of the ancestor. But a fine is equally taken from the offspring, as land; yet no one denies the right to fine a person attainted. There was, however, an effect of attainder that did punish the offspring, and the offspring alone. Every student of Blackstone knows this, that the judgment convicting a person of treason operated a corruption of blood. The corruption of blood stopped the transmission of heritable blood to any heir of the person attainted; so that the legal effect of conviction for treason under the law of England was, first, to forfeit all the property, real and personal, of the person attainted; and, secondly, to corrupt his blood, destroy its heritable quality, so that he could neither take land by descent himself, nor transmit heritable blood to the person who would, but for his attainder, have been his heirs. He could, in the language of the law, have no heirs. The attainder corrupted his blood, and there was no heritable blood transmitted to them."

This is substantially a correct historical sketch and exposition of bills of attainder under the English law, the evil effects of which it was intended by the framers of our Constitution to avoid; but the gentleman has fallen into the common error

of supposing that the clause of the Constitution now under consideration is the one to which his argument applies. As a careful lawyer he ought to have examined further and to have read that other provision in the Constitution to which I will now call his attention, by which he will perceive that the odious features of bills of attainder were met and disposed of by another and different clause than the one to which he has applied his argument. His extensive practice at the bar ought to have taught him long ago that the symmetry of that most perfect of all human instruments, the Constitution, can be discovered only by an examination of its different parts.

The clause upon which he comments, and to which he has made his remarks applicable is in article three, section three, of the Constitution; but if he will examine article one, section nine, he will find these words, "No bill of attainder or *ex post facto* law shall be passed."

It was by this restrictive clause in article one, and not in article three, that the framers of the Constitution at once and forever abolished the barbarous bill of attainder of the English law. The quotation which I have made from the gentleman's speech is applicable as a commentary on article one and not on article three, of the Constitution, for, as I have before said, bills of attainder were abolished by the Constitution in its first article, and before the third article came up for consideration. The citation from Story (volume three, page 210) which has already been made on this floor is a commentary on the restrictive clause in the Constitution, article one, section nine, which says, "No bill of attainder or *ex post facto* aw shall be passed," and not upon article three, section three, which says, "No attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted."

In his Commentaries, touching this restrictive clause, "bill of attainder and *ex post facto* law," he says:

"Such acts have been often resorted to in foreign Governments as a common engine of state; and even in England they have been pushed to the most extravagant extent in bad times, reaching as well to the absent and the dead as to the living. Sir Edward Coke has mentioned it to be among the transcendent powers of Parliament, *that an act may be passed to attaint a man after he is dead.* And the reigning monarch, who was slain at Bosworth, is said to have been attainted by an act of Parliament *a few months after his death*, notwithstanding the absurdity of deeming him at once in possession of the throne and a traitor. The punishment has often been inflicted without calling upon the party accused to answer, or without even the formality of proof, and sometimes because the law in its ordinary course of proceedings would acquit the offender. The injustice and iniquity of such acts in general constitute an irresistible argument against the existence of the power. In a free Government it would be intolerable, and in the hands of a reigning faction it might be, and probably would be, abused to the ruin and death of the most virtuous citizens. Bills of this sort have been most usually passed in England in times of rebellion, or of gross subserviency to the Crown, or of violent political excitements--periods in which all nations are most liable (as well the free as the enslaved) to forget their duties and to trample upon the rights and liberties of others."

That such were the reasons that induced the framers of the Constitution to insert the clause forbidding Congress to pass any bill of attainder or *ex post facto* law, I might cite Kent, Rawle, Curtis, and others who have written on the subject. But it cannot be necessary. When they said "No bill of attainder or *ex post facto* law shall be passed," they had finished that subject, and may well be supposed to have known what they had done, and, though they might not have been so accomplished in the science of *philology* as the learned gentleman from Indiana, (Mr. ORTH,) it would not be a violent presumption to suppose that when they came to say in a subsequent clause, "No attainder of treason shall work corruption of blood or forfeiture except during the life of the attainted," they knew what they intended to say, and said what they intended to in plain English language, and that they neither meant nor did in fact modify or change in any way what they had said or done in the previous clause: they meant to say *except*, and not *unless*, and the word, with them, had its common, intelligible meaning, and no question has been made as to its clear intent from that time to this, save

by the wise philologists that are cropping out in this Hall and in other departments of the Government.

The learned gentleman from Indiana (Mr. ORTH) says that the "science of philology is progressive, and that the same word in different ages and times may be used to mean dissimilar things." "Change," he says, "is the irrevocable law of nature, stamped upon everything and appertaining to every department of knowledge." The gentleman then says that we are told by lexicographers that the word *except* is equivalent to the word *unless*, and then he shows his familiarity with the Scriptures by several quotations, which another distinguished individual connected with one of the Departments of the Government has also quoted in his recent review of this subject, to show us that the word "except" means the word "unless." He says:

"Numerous instances of this are found in the Holy Bible, where the word 'except' is used in sentences in which at the present day we should invariably use the word 'unless;' thus:

"'*Except* the Lord build the house, they labor in vain that build it.'

"'*Except* the Lord of hosts had left unto us a very small remnant, we should have been as Sodom.'

"'Can two walk together, *except* they be agreed?'

"'*Except* a man be born again, he cannot see the kingdom of God.'

"'*Except* ye repent, ye shall all likewise perish.'

"In all these instances, and they could be multiplied almost *ad infinitum* from writings of that age, both sacred and profane, the word 'except' is used in the sense in which we of the present day would use the equivalent word 'unless.'

"Now, then, let us, in further illustration of my position, substitute the word 'unless' for the word 'except' in the clause under consideration. It will then read:

"'But no attainder of treason shall work corruption of blood or forfeiture *unless* during the life of the person attainted."

Now his construction is a forced one. The word *except* qualifies and relates to the words immediately following, and not words which must be interpolated in order to carry out his theory. In order to make his views intelligible and to carry out his idea, I submit that he should go still further, that he should have the word "except" or "unless" modify or qualify, not what immediately follows, but something he proposes to interpolate; so that it shall read:

No attainder of treason shall work corruption of blood or forfeiture unless the offender be attainted in his lifetime, in which case forfeiture of his estate shall be absolute.

But this, I think, may well be said to be a forced construction, and clearly not intended by the framers of the Constitution.

Do the gentlemen give us any authority for their construction? There is no pretense of any. Is it pretended by them that their construction has ever been sanctioned by any judicial tribunal? They claim no such authority, unless it be that of Judge Underwood, of the United States district court for eastern Virginia, who has recently acted in accordance with this peculiar construction, and actually "decreed," as one of our daily papers announces, the sale of certain real estate owned by one Hugh Latham, adjudged guilty of treason, and directed its transfer in fee simple to the purchaser when the same should be sold under order of court. He is the first and only judicial officer, since the formation of our Constitution, to construe the word *except* as meaning *unless*. He says:

"If we use the word 'except' in the above sense in the constitutional provision, or make it read '*unless* during the life of the person attainted,' we shall at once come to *the true intent and meaning* of the provision, to wit: that the forfeiture was to be perfected *during*, and not *after*, the lifetime of the party attainted."

And under this shallow but wicked perversion of the meaning of the Constitution has decreed the forfeiture and transfer in fee of real estate of the offender. This he has done, too, while the joint resolution, which is a part of the confiscation act, expressly says that for any of the offenses specified in said act, there shall be no forfeiture of real estate *beyond the* natural life of the offender. Whatever construction may be put on the clause of the Constitution, and whatever powers a judge might have under the confiscation act, if the joint resolution defining the limitation of punishment were not on the statute-book, it is certain that with this resolution in full force and unrepealed, Judge Underwood has as clearly

violated his oath of office in this arbitrary decree as he would by decreeing and putting into execution the punishment of death for the common offense of assault and battery. And yet he will not be impeached or removed from office. He is of the elect, in the fold, and will remain where he is to try experiments on the established rights of citizens.

I think the gentleman (Mr. ORTH) might have been able to give us at least one authority, but he did not do us the favor of citing that work which I am satisfied he must have examined very thoroughly. There is an authority—the authority of a gentleman whose ability, whose legal learning and acumen, whose extensive knowledge and research are admitted by all, and above all whose patient and devoted loyalty to the country can but command the admiration of those who know him, and who has taken the same view of the subject which the gentleman from Indiana has taken; and there is such a happy harmony and beautiful similarity of opinion, and in some instances of language, that I wonder he did not feel inclined to do justice to that distinguished individual who has very elaborately considered this question, and published his views upon it. I refer to the distinguished Solicitor of the War Department, Mr. William Whiting, of Boston.

Mr. Speaker, I was saying that there never had been but one construction of this article three, section three, of the Constitution; and that was that attainder of treason should not work corruption of blood or forfeiture *beyond* the life of the attainted.* And at the risk of being considered behind the times, and of calling to my aid the opinion of one who in times past commanded respect and attention, but who must now yield to the brighter luminaries of jurisprudence, of the political, civil, and higher law, and who is considered by the gentleman from Massachusetts (Mr. BOUTWELL) as second rate when compared with the great men of the country. I will venture once more to cite Joseph Story upon the very point now under consideration. In commenting on the express power given to Congress to

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* The following is from the National Intelligencer of Jan. 26, 1864:

"It is safe to say that there were not two opinions in this country upon the meaning of this clause, so long as its interpretation was left to depend upon the unbiassed construction and interpretation of its language; but when the minds of men came to consider it under the stress of certain wishes to do what the plain terms of the clause did not allow, a resort was had to "construction construed" for the purpose of extorting from it the desired signification. It is not the first time that the Constitution has been subjected to the rack and the thumbscrew; but we have never witnessed an instance in which the violence done to its terms and spirit was applied with less discretion or reason.

"Disregarding alike the plain letter of the Constitution, the known scruples of the President, the declared weight of authority, the admonitions of history, the impulses of natural justice, and the most obvious considerations of public expediency, the advocates of this change in the policy of the confiscation act seek to impress on the legislation of our country under this head a character for ferocity which revives the worst traditions of despotic Governments in barbarous ages. Their minds are so filled with thoughts of revenge that, in meting out punishment to traitors, they seem to forget not only what is due to the Constitution but to themselves. And this innovation on that instrument and on the spirit of the age is pressed upon the attention of Congress and the country in the hope, we suppose, that few will be found brave enough to lift their voices in condemnation of anything that *seems* harsh and violent if professedly directed against 'the enemies of the country.'

"There is a class of men who habitually mistake violence for force, and passion for earnestness, or who suppose that the people cannot discriminate between the rant of 'loyalty' and the genuine sentiment. It is assumed by this class that they occupy a 'coigne of vantage' if they can take any position which places their antagonists under the odium of seeming to 'ask for tenderness towards rebels.' We should be sorry to think that the species of moral cowardice upon which such men depend for their hopes of success was as prevalent as is supposed. We trust that we may never live to see the day when we shall lack the courage to defend our honest opinions because of the odium which it may be falsely sought to cast upon them by those who find it more within the range of their limited capacities to impute to us improper motives than to answer our arguments. But, in truth the present case is not one in which there is room for any such test of courage or constancy, as it is they who advocate, not they who oppose this measure, who are called to exonerate themselves from the suspicion of acting in the interest of the enemy, as they avowedly act in opposition to the known views and declared policy of the President. Does any one doubt that Jefferson Davis and his coadjutors desire the passage of sweeping and unrelenting confiscation acts by the Congress of the United States? Does any one doubt that *they* wish success to the new movement made in this direction? Or does any one doubt that the necessary—we do not say the designed—consequences of all such measures is to overleap their aim and to furnish a fresh fulcrum over which the waning strength of the revolt may bend itself to new endeavors in the work of insurging the Southern masses?"

punish treason, he touches the precise point under discussion, when he uses the words "forfeiture beyond the life of the offender:"

"Two motives probably concurred in introducing it as an express power. One was not to leave it open to implication whether it was to be exclusively punishable with death, according to the known rule of the common law, and with the barbarous accompaniments pointed out by it, but to confide the punishment to the discretion of Congress. The other was to impose SOME LIMITATION upon the NATURE AND EXTENT of the punishment, so that it should *not* work corruption of blood, or forfeiture BEYOND *the life of the offender.*" * * * * *

"It surely is enough for society to take the life of the offender, as a just punishment of his crime, without taking from his offspring and relatives that property which may be the only means of saving them from poverty and ruin. It is bad policy, too; for it cuts off all the attachments which these unfortunate victims might otherwise feel for their own Government, and prepares them to engage in any other service by which their supposed injuries may be redressed or their hereditary hatred gratified. Upon these and similar grounds it may be presumed that the clause was first introduced into the original draft of the Constitution; and after some amendments it was adopted without any apparent resistance. By the laws since passed by Congress it is declared that no conviction or judgment, for any capital or other offenses, shall work corruption of blood, or any forfeiture of estate. The history of other countries abundantly proves that one of the strong incentives to prosecute offenses as treason has been the chance of sharing in the plunder of the victims. Rapacity has been thus stimulated to exert itself in the service of the most corrupt tyranny, and tyranny has been thus furnished with new opportunities of indulging its malignity and revenge; of gratifying its envy of the rich and good; and of increasing its means to reward favorites and secure retainers for the worst deeds."—*Vol.* 3, *p.* 169.

Again, I will refer to another authority, which the gentleman from Pennsylvania (Mr. KELLY) seemed to question the other day. Dr. Lieber says:

"The true protection of individual property demands likewise the exclusion of confiscation. For although confiscation, as a punishment, is to be rejected on account of the undefined character of the punishment, depending not upon itself but upon the fact whether the punished person has any property and how much, it is likewise inadmissible on the ground that individual property implies individual transmission, which confiscation totally destroys. It would perhaps not be wholly unjust to deprive an individual of his property as a punishment for certain crimes, *if we would allow it to pass to his heirs.* We do it in fact when we imprison a man for life, and submit him to the regular prison discipline, disallowing him any benefit of the property he may possess; but *it is unjust to deprive his children or other heirs of the individual property, not to speak of the appetizing effect which confiscation of property has often produced upon Governments.*"—*Vol.* 1, *p.* 123.

From which it is apparent his construction of the clause under consideration would be the same as that of Judge Story.

It is true that on examination of the debates upon the Constitution by the framers of it, while in convention, very little can be gathered of their construction of the language of the clause under consideration, and the gentleman from Indiana (Mr. ORTH) says he has been able to find no contemporaneous exposition of its meaning. He had examined Elliot's Debates, and found no light, but I take it he did not examine the Federalist very carefully, or he would have found an authority upon the very point under discussion, and which to my mind, establishes with more certainty the meaning of art. 3, sec. 3, than any or all commentaries on it at a later period.

In one of the papers of James Madison you will find the following:

"As treason may be committed against the United States, the authority of the United States ought to be enabled to punish it; but as new-fangled and artificial treasons have been the great engines by which violent factions, the natural offspring of free Governments, have usually wreaked their alternate malignity on each other, the Convention have with great judgment opposed a barrier to this peculiar danger, by inserting a constitutional definition of the crime, fixing the proof necessary for conviction of it, and restraining the Congress, even in punishing it, from extending the consequences of guilt *beyond* the person of its author."—*The Federalist*, p. 173.

It is therefore clear to my mind, Mr. Speaker, that the meaning of this 3d section of the Constitution is to confine forfeiture of estates to the lives of the offenders.

I wish now to say a single word with reference to the other view sustained by the gentleman from Maryland (Mr. DAVIS,) and which, as I understand, is sustained by him alone. He says:

"It is wholly immaterial whether, in the event of the parties being convicted of treason, Congress can or cannot make a consequence of the judgment the forfeiture of lands in fee simple, or is confined to a forfeiture limited in duration by the life of the convict.

"The question here is whether there is any process of law, however this provision be construed, by which we cannot effect a forfeiture of the whole fee in lands. That question gentlemen have nowhere met.

"The question is whether by other process of law not connected with indictment of the person, not following upon attainder, the United States Government can say that those who have been in arms against it shall forfeit their property, and that the tribunals of the country shall enforce it *in rem;* and *this* is settled by the traditional laws of the Republic."

Again, he says:

"The law of the last Congress prescribed a different process from conviction in a court of law of the person guilty of the crime. It provides that upon proceedings *in the district court in the nature of proceedings in admiralty* the lands of certain classes of persons, and all their personal property, shall be forfeited for the use of the Government.

"And the Constitution provides that the property of citizens shall not be taken without due process of law. Now, the question which gentlemen on the other side of the House have to argue is, not the law of attainder, but whether the process in the district courts of the United States to confiscate the property of persons proved to be of the specified classes is due process of law for depriving a man of his property under the Constitution. If they cannot maintain that that is not due process of law within the meaning of the Constitution, they cannot throw the least doubt on the constitutionality of this mode of procedure."

His question may be somewhat ingenious, but can be easily answered even by himself, if he will bring to bear on its consideration one half the legal attainments and perception that have hitherto been willingly accorded to him. His mistake is in supposing that any proceding *in rem* may be sustained for an offense purely *personal*, before proceeding against the offender, and establishing his guilt. He says, admitting that our construction of the Constitution is right, that you cannot confiscate the real estate of the person attainted with treason, except during the lifetime of the person so attainted. Is there no other process of law by which you can proceed against real estate, as you proceed against personal property, *in rem*, and confiscate it absolutely?

I answer that there is no such process of law; and, if I had the time, I could make appear most distinctly the difference there is between the two classes of property. The distinction is briefly this: I say you cannot proceed against any property *in rem* unless that property is in some way connected with the subject-matter of the offense. It must be in some way the *instrument of the offense;* or, to carry the definition a little further, you cannot proceed *in rem* unless you find that property *in delictu*—in *the wrong*—or in same way *in default.*

The gentleman says:

"If this were a new question possibly there might be room for argument. But fröm the first Administration down to this day there never has been a day in which, on the statute-book of the United States, exactly this process to forfeit property for crime without first convicting the owner on indictment has not been prescribed. The law of 1799, among the first of the revenue laws, forfeited property brought in under fraudulent invoices, without proceeding against the individual personally; and all the revenue laws from that day to this enforce these provisions by forfeitures and proceedings *in rem.*"

All this is admitted; but *these* are cases where the process is enforced against the *property* without the slightest reference to the guilt of the *person.* If fraudulent invoices are found that is all that is necessary to found a proceeding against the property; and the very titles of the actions or suits in court show that it is not necessary to this proceeding to connect the guilt of any person with it. The cases are designated, The United States against twenty hogsheads sugar, twenty tierces of molasses, one thousand boxes tobacco, or whatever the article may be, which is the instrument of offense, or which may be found *in delictu* or in *default.*

Again, he says:

"The navigation laws of the United States, from the earliest days of the Republic, inflict forfeiture in the district court on proceedings against the vessel for violation of those laws without prosecuting the owner, though liable to indictment. Who ever heard that a vessel could not be forfeited unless the master or owner were indicted, or until after they had been indicted? Our laws in reference to trade with the Indians make it penal to carry ardent spirits among them, and they punish the persons guilty and forfeit the property by process *in rem* in the district court. Is that unconstitutional?"

No one has or will contend that you may not proceed against the vessel in the case cited without first indicting the master or owner. By the Constitution, art. 3, section 2, "the judicial power shall extend to all cases of admiralty and maritime jurisdiction;" and under this sanction, and the laws of Congress passed in pursuance thereof, a large class of cases are designated in which the process is to be against the property. But all these cases come within the distinctions which I have made. The vessel in the case cited is the instrument of the offense, and is proceeded against in the name of the United States without regard to first establishing the guilt of the owner or master; and so it is with the "ardent spirits"

sold to the Indians in violation of law. I will cite a case which I think comes much nearer to the gentleman's position than any which he has put. Here is land upon which taxes remain unpaid; now, unless paid, the land may be sold, under the conditions prescribed by law. Now I am asked if this land is *in delictu*—is it the instrument of offense? It cannot be correctly said it is, but it certainly is in *default*. I think the gentleman can find no case of a process *in rem* where the property proceeded against is not either the *instrument of offense*, *in delictu*, or in *default*. Does it apply to the real estate of the rebels? Is their real estate the instrument of offense? Is it in the *wrong*, or *in default*? Is not the crime of the rebels entirely personal and unconnected with their land?

Mr. STEVENS. Without taking up the gentleman's time, I wish to ask him a single question. Suppose this property is that of an alien enemy, does the gentleman hold that his real estate cannot be confiscated absolutely?

Mr. SWEAT. If alien enemies, perhaps their property can be confiscated absolutely. The law applying to such cases is well settled, not by Congress, but by the laws of nations, and therefore can have no reference to the subject before us. I am not now discussing the laws of nations. It may be true that under the laws of nations the property of alien enemies may be confiscated absolutely, whether personal or real; but this I am not discussing. I am aware that the theory has been advanced that those now in arms against this Government are so to be regarded. That is a question which I have not time to discuss now, and which does not legitimately come up in this discussion.

And I will only say here that I have ever held that as our armies advance I would have them *take, hold and use* any of the property of the rebels, (including their Slaves, if aiding in resistance to us,) in any way which can conduce to the accomplishment of the true purposes of the war.

Mr. Speaker, I cannot take up much more of the time of the House under the rules limiting me to one hour, although I have been interrupted in several instances, and will close by saying one or two words of a general character. I ask gentlemen on the other side of the House, who have spoken on this subject, what is the importance of urging this measure? what is at the bottom of all this?

I will tell you what it is. It is the formal inauguration in this House of that radical theory upon which parties in this country must divide, and on this question there are really but two parties. The conservatives on the one side and extremists on the other. The gentleman from Ohio (Mr. SCHENCK) told us the other day that there are three parties in this country. One in favor of prosecuting the war and of furnishing men and money to an unlimited extent; another party opposed to continuing the war further upon any terms; and a third party in favor of the war, but opposed to all the necessary means for carrying it on.

But if the gentlemen intend to stand by the theory which they have advocated in this discussion, if it is their purpose to open up all the lands of the South *de novo* for the benefit of speculators, as has already been done, if the senseless opinions of Judge Underwood are to be followed, let gentlemen say that such is their intention. In which case I think I might reduce the parties to two, *one of which is in favor of carrying on the war to subdue the armed rebellion and preserve the Union, and to furnish the Government with all the necessary means to do it, and when this is done to receive the States back, leaving all other matters in dispute to be settled by the courts, to which one I claim to belong; while the other is in favor of making it an abolition war, and would not stop it even though all the rebels should lay down their arms and swear to obey the laws of the land, unless upon the previous destruction of slavery, and the taking away all State rights, and the rehabilitation of the whole southern country.* If the gentlemen are willing to stand on this platform, let us know it. Let us have no more attempts to swindle the people under the cry of the Union. Such

seem to be the two grand divisions of parties to which we are fast tending.* It is the doctrine of Fred. Douglass put forth directly in his resolutions, and which I know is the doctrine of many of the gentlemen on the other side. It is not my

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* Two days after this speech, the platform on which they propose to stand was clearly announced by Mr. STEVENS, chairman of Committee of Ways and Means, the acknowledged leader of the Administration party. He said:

"If the United States succeed, how may she treat the vanquished belligerent? Must she treat her precisely as if she had always been at peace? If so, then this war, on the part of the United States, has been not only a foolish but a very wicked one. But there is no such absurd principle to restrain the hands of the injured victor.

"By the laws of war the conqueror may seize and convert to his own use everything that belongs to the enemy. This may be done while the war is raging to weaken the enemy, and when it is ended the things seized may be retained to pay the expenses of the war and the damage caused by it. Towns, cities, and provinces may be held as a punishment for an unjust war, and as security against future aggressions. The property thus taken is not confiscated under the Constitution after conviction for treason, but is held by virtue of the laws of war. No individual crime need be proved against the owners. The fact of being a belligerent enemy carries the forfeiture with it. Here was the error of the President when he vetoed the confiscation bill passed by Congress. In the confusion of business he overlooked the distinction between a traitor and a belligerent enemy.

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"Every inch of the soil of the guilty portion of this usurping power should be held responsible to reimburse all the costs of the war; to pay all the damages to private property of loyal men; and to create an ample fund to pay pensions to wounded soldiers and to the bereaved friends of the slain."

Again, after quoting Phillimore as to the question of "property in man," he says:

"Such, thank God, is at last the national law of the civilized world. And who is there base enough in this Republic to wish it otherwise or to attempt to evade it? He who now wishes to re-establish 'the Union as it was,' and to retain the 'Constitution as it is,' cannot escape the guilt of attempting to enslave his fellow-men."

And, finally, after arguing that the rebel States have forfeited all rights under the Constitution, he further says:

"To gentlemen who were members of the last Congress this is but repetition. At the extra session of 1861 I advanced the same suggestions; and I have repeated them on all occasions that I deemed proper since. They were not then quite acceptable to either side of the House; but I am glad to find that the President, after careful examination, has come to the same conclusion. In details we may not quite agree; but his plan of reconstruction assumes the same general grounds. It proposes to treat the rebel territory as a conqueror alone would treat it. His plan is wholly outside of and unknown to the Constitution; but it is within the legitimate province of the laws of war. His legal mind has carefully studied the law of nations, and reached a just conclusion.

"The condition of the rebel States having been thus fixed, reconstruction becomes an easier question, because we are untrammeled by municipal compacts and laws—that refuge of conservative sympathizers with our "erring brethren." The President may not strike as direct a blow with a battering-ram against this Babel as some impetuous gentlemen would desire; but with his usual shrewdness and caution he is picking out the mortar from the joints until eventually the whole tower will fall."

The following extract from the New York Times of Jan. 23, 1864, shows that not all the Republican organs sustain the views of Mr. Stevens. We commend it to the attention of the reader:

"Extreme measures against the rebels, which shall involve not only themselves, but women and children in an indiscriminate ruin, may perhaps satisfy a certain grim craving for terrible retribution, but they will not be sanctioned by the public opinion of Christendom, and will, sooner or later, induce a reaction of sympathy which will deprive them of all beneficial effect.

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doctrine. I have one simple theory. I have had but one from the beginning of the war up to the present time. My theory is, prosecute earnestly, prosecute vigorously this war until the armed rebellion is subdued. Repeal all unconstitutional laws and pass none that are unconstitutional. And when this armed rebellion is put down, welcome the States back, and let all the questions in dispute, which are now undertaken to be settled in advance, be settled by the proper judicial tribunals of the land. This seems to me to be the only wise and true course. I do not believe in the powers of the President, nor in the powers of Congress, nor in any powers outside of the Constitution, of blotting out States and obliterating State lines.

The SPEAKER. The gentleman's hour has expired.

Mr. SWEAT. Mr. Speaker, I ask the unanimous consent of the House for a moment more in which to conclude what I have to say.

There was no objection, and it was ordered accordingly. *

Mr. SWEAT. Mr. Speaker, I say that I do not believe in the power of any of the departments of the Administration, or of the whole Administration together, to blot out State lines, or to make them oscillate upon the face of the earth as the shadows of a wandering maniac. I am for a policy of vigorous prosecution of the war until the rebellion is crushed. I am for filling up the armies of the Union, and willing to legislate for that purpose. When you have asked me to vote supplies, I have shown you by my example that I am ready to do that. When you proposed a repeal of the law for paying additional bounties, we voted with you. We voted for it because it was your suggestion, supposing you knew whether it was needed or not. The President and the Secretary of War asked for a reconsideration of that matter, so that the bounties might be continued, and we of this side of the House voted for it. We wished to put no embarrassment in the way of the Government, and therefore yielded to the expressed wishes of the Administration.

Now, Mr. Speaker, I do not propose to go into a political speech or to lay down any political platform, for there is no time to do this were I so disposed, and such was not my purpose when I arose to speak on the question before us. I say to gentlemen upon the other side that I am willing, and I believe all on this side the House are willing to aid them in any legislation that is necessary to put down this armed rebellion. I hope that we shall not have any more charges from that side of the House that we are here for the purpose of troubling and impeding the Administration. The only impediment we interpose is that of opposition to any act or measure which is calculated to obstruct the successful prosecution and just termination of

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"We have not searched history particularly upon the subject, but we can recall no instance of such sweeping wholesale confiscations as this bill contemplates. The old Roman Empire has the name of being about as hard a conqueror as the world has seen, and yet its usage was not to confiscate the property of its enemy entirely, but to reserve for the original proprietor one-third for the subsistence of himself and family. Cromwell's confiscations in Ireland, which have always figured as particularly severe, were yet attended with allotments in Connaught, such as the protector deemed sufficient for family support. Russia's *regime* over Poland after the insurrection of 1830 has been considered almost merciless. Fifty thousand Poles were sent to Siberia, and about ten thousand estates were confiscated: but these estates were only a small proportion of the old soil of Poland. In the State of Virginia alone there are over a hundred thousand freeholds; within the limits of the "Confederacy" at least three-fourths of a million. Nearly all of this vast amount of real estate would be forfeited forever by its present proprietors if this confiscation measure were carried out according to its terms; for there is hardly a real estate owner in the South who has not participated in the rebellion one way or another. Such sweeping work, were it practicable, would throw into the shade everything of the kind known to history."

the war, whether that obstruction comes from the President, from this Congress, or from the people. We shall never consent to having the war subordinated to politics, or in any way diverted from its legitimate objects. Let us do as Macaulay has said they did at an eventful period in English history, when Roundheads and Cavaliers, Episcopalians and Presbyterians joined in firm union to sustain the laws of the land. I will go with any gentleman for that purpose. But on the matter before the House I feel it to be my duty to vote in the way I have indicated. If we have generals in the field, encourage them, pay them well, but let us see that they are on duty, and that they are not upon furlough and without commands, as we have it reported by the Secretary of War that many of them are at an expense to the Government of $27,000 per month. Let us undertake to discover and punish public corruption and fraud; for I hold that public corruption is private corruption, and that public sin is private sin, and that we are responsible just to the extent that we know it and do nothing to prevent and remedy it. I will join the gentlemen upon the other side of the House, and I think that the gentlemen upon this side will join them, in the action suggested in these desultory remarks for accomplishing the great object of ending the war and preserving the Union. If we stand by that proud old flag which is hanging so gracefully above you, Mr. Speaker, as full of inspiration to-day as it has ever been, "the glorious emblem of resistless and beneficent power," it will assuredly lead us to glory and to victory.

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